

Introduced by Senator FigueroaFebruary 24, 2006

An act to add Section 1648 to the Health and Safety Code, relating to human milk, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1785, as introduced, Figueroa. Human milk.

Existing law provides that the procurement, processing, distribution, or use of human milk for human consumption constitutes the rendition of a service, and not a sale of the human milk for any purpose.

Existing law provides for the licensure and regulation of tissue banks by the State Department of Health Services.

This bill would require a hospital that collects, processes, stores, or distributes human milk to comply with specified standards that are in effect on the effective date of the bill. It would also exempt a hospital from the tissue bank licensure and regulation requirements for the purpose of collecting, processing, storing, or distributing human milk. The bill would exempt from any screening test requirement human milk to be given to the infant of the woman who expressed the milk.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) There is consensus among health care experts and
2 institutions that breastfeeding is the superior method of feeding
3 and nurturing infants.

4 (b) The American Dietetic Association states that “human
5 milk provides optimal nutrition to the infant, with its dynamic
6 composition and the appropriate balance of nutrients provided in
7 easily digestible and bioavailable form.”

8 (c) According to the American Academy of Pediatrics 1997
9 policy statement, “human milk is uniquely superior for infant
10 feeding and is species-specific; all substitute feeding options
11 differ markedly from it.” The policy statement also asserts that
12 “research in the United States, Canada, Europe, and other
13 developed countries, among predominately middle-class
14 populations, provides strong evidence that human milk feeding
15 decreases the incidence and/or severity of diarrhea, lower
16 respiratory infection, otitis media, bacteremia, bacterial
17 meningitis, botulism, urinary tract infection, and necrotizing
18 enterocolitis.”

19 (d) There is a number of studies that show a possible
20 protective effect of human milk feeding against sudden infant
21 death syndrome, insulin-dependent diabetes mellitus, Crohn’s
22 disease, ulcerative colitis, lymphoma, allergic diseases, and other
23 chronic digestive diseases.

24 (e) The American Academy of Pediatrics recommends that
25 infants be exclusively breastfed for approximately six months
26 before being introduced to complementary foods.

27 (f) Too few women in California exclusively breastfeed their
28 infants in the early postpartum period, let alone in the first six
29 months of life, as recommended by the American Academy of
30 Pediatrics.

31 (g) There are also racial and ethnic disparities with regard to
32 breastfeeding rates. While 61.8 percent (down from 64 percent in
33 2001) of white women in California are exclusively
34 breastfeeding in the hospital, only 40 percent of Asians, 27
35 percent of Pacific Islanders, 30 percent of African-American
36 women, and 29 percent (down from 30 percent in 2001) of
37 Latinas are doing so.

38 (h) In “Breastfeeding: Investing in California’s Future,” the
39 Breastfeeding Promotion Committee Report to the California
40 Department of Health Services Primary Care and Family Health

(1996) there was a finding that "... women look to health care providers for breastfeeding information and support; however, health care systems, policies, and personnel often unknowingly interfere with the initiation and continuation of breastfeeding." This report also states that health care professionals are in a key position to effect breastfeeding success, and promotional efforts will be successful only if women who are encouraged to breastfeed encounter providers who are able to respond to their needs.

(i) Current California law inadvertently discourages the feeding of breast milk to infants in the hospital by requiring a hospital that permits a mother to store her milk in a hospital refrigerator to obtain and maintain a full tissue bank license.

(j) Hospitals that cannot complete the process for obtaining a full tissue bank license cannot legally allow a mother to store her milk in a refrigerator on the hospital premises.

(k) A mother whose infant is admitted to a hospital may not be able to be physically present to breastfeed the infant at each feeding time, and may wish to store her milk in a refrigerator on the hospital premises. Many hospitals wish to permit mothers to do this, but are unable to do so due to the lengthy and complicated process required to obtain a full tissue bank license from the State of California.

(l) It is the intent of the Legislature to adopt policies that promote and encourage the breastfeeding of all infants, including those who are hospitalized.

SEC. 2. Section 1648 is added to the Health and Safety Code, to read:

1648. (a) A hospital that collects, processes, stores, or distributes human milk shall comply with the standards established for the collection, processing, storage, or distribution of human milk that are in effect on the effective date of this section by the Human Milk Banking Association of North America or other nationally recognized organization.

(b) A hospital shall be exempt from the requirements of Chapter 4.1 (commencing with Section 1635) for the purpose of collecting, processing, storing, or distributing human milk.

(c) Notwithstanding any other provision of law, no screening tests shall be required to be performed on human milk given to the infant of the woman who expressed it.

1 SEC. 3. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety
3 within the meaning of Article IV of the Constitution and shall go
4 into immediate effect. The facts constituting the necessity are:

5 In order that needed statutory changes allowing hospitals to
6 comply with specified standards for the collection, processing,
7 storage, and distribution of human milk can be enacted at the
8 earliest possible time, it is necessary that this act take effect
9 immediately.